CHAPTER 280

AN ACT SB 142

Relating to communicable health conditions; amending ORS 93.275, 109.610, 147.395, 192.577, 336.035, 336.455, 336.465, 414.153, 414.679, 418.325, 419C.475, 435.010, 659A.145, 676.350, 677.370 and 743.154.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 93.275 is amended to read:

93.275. (1) The following are among incidents that are not material facts to a real property transaction:

(a) The fact or suspicion that the real property or a neighboring property was the site of a death by violent crime, by suicide or by any other manner;

(b) The fact or suspicion that the real property or a neighboring property was the site of a crime, political activity, religious activity or any other act or occurrence that does not adversely affect the physical condition of or title to real property;

(c) The fact or suspicion that an owner or occupant of the real property has or had [*human immunodeficiency virus or acquired immune deficiency syndrome*] **a blood-borne infection**;

(d) The fact or suspicion that a sex offender registered under ORS 163A.010, 163A.015, 163A.020 or 163A.025 resides in the area; and

(e) The fact that a notice has been received that a neighboring property has been determined to be not fit for use under ORS 453.876.

(2) The Legislative Assembly finds that there is no known risk of the transmission of human immunodeficiency virus or acquired immune deficiency syndrome by casual contact.

SECTION 2. ORS 109.610 is amended to read:

109.610. (1) Notwithstanding any other provision of law, a minor who may have come into contact with any [*venereal disease, including HIV,*] **sexually transmitted infection** may give consent to the furnishing of hospital, medical or surgical care related to the diagnosis or treatment of [*such disease, if the disease or condition*] **the sexually transmitted infection if it** is one [*which*] **that** is required by law or regulation adopted pursuant to law to be reported to a state or local health agency or officer. Such consent shall not be subject to disaffirmance because of minority.

(2) The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize such hospital, medical or surgical care and without having given consent the parent, parents, or legal guardian shall not be liable for payment for any such care rendered.

SECTION 3. ORS 147.395, as amended by section 3, chapter 120, Oregon Laws 2018, is amended to read:

147.395. As used in ORS 147.397:

(1) "Complete medical assessment" means an assessment that consists of:

(a) A medical examination;

(b) The collection of forensic evidence using an evidence collection kit approved by the Department of State Police; and

(c) The offering and, if requested, provision of emergency contraception, sexually transmitted [*disease*] **infection** prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.

(2) "Medical assessment" means a complete or partial medical assessment.

(3) "Partial medical assessment" means an assessment that consists of:

(a) A medical examination; and

(b) The offering and, if requested, provision of emergency contraception, sexually transmitted [*disease*] **infection** prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.

(4) "Sexual assault forensic evidence kit" has the meaning given that term in ORS 181A.323.

SECTION 4. ORS 192.577 is amended to read:

192.577. (1) A health care provider shall disclose protected health information concerning an inmate of a Department of Corrections facility to the physician of an employee of the department or of Oregon Corrections Enterprises, without an authorization from the inmate or a personal representative of the inmate, if:

(a) The employee, in the performance of the employee's official duties, was directly exposed to the bodily fluids of the inmate; and

(b) The inmate has tested positive for [*HIV or hepatitis B or C*] **a blood-borne infection** or other communicable disease that may be transmitted through an individual's bodily fluids.

(2) A disclosure under subsection (1) of this section must be limited to the minimum necessary to inform the physician of possible exposure to [*HIV, hepatitis B or C*] **a blood-borne infection** or other communicable disease.

SECTION 5. ORS 336.035 is amended to read:

336.035. (1) The district school board shall see that the courses of study prescribed by law and by the rules of the State Board of Education are carried out. The **district school** board may establish supplemental courses that are not inconsistent with the prescribed courses and may adopt courses of study in lieu of state courses of study upon approval by the Superintendent of Public Instruction.

(2) Any district school board may establish a course of education concerning sexually transmitted [*diseases*] **infections** including recognition of causes, sources and symptoms, and the availability of diagnostic and treatment centers. Any such course established may be taught to adults from the community served by the individual schools as well as to students enrolled in the school. The board shall cause the parents or guardians of minor students to

be notified in advance that the course is to be taught. Any such parent or guardian may direct in writing that the minor child in the care of the parent or guardian be excused from any class within the course. Any parent or guardian may inspect the instructional materials to be used before or during the time the course is taught.

(3) The district school board shall coordinate the course provided in subsection (2) of this section with the officials of the local health department and the Superintendent of Public Instruction. Teachers holding endorsements for health education shall be used where available. [*No*] **A** teacher [*shall*] **may not** be subject to discipline or removal for teaching or refusing to teach courses concerning sexually transmitted [*diseases*] **infections**.

SECTION 6. ORS 336.455 is amended to read:

336.455. (1) Each school district shall provide age-appropriate human sexuality education courses in all public elementary and secondary schools as an integral part of the health education curriculum.

(2) Course material and instruction for all human sexuality education courses shall enhance students' understanding of sexuality as a normal and healthy aspect of human development. Course instruction shall:

(a) Be medically accurate.

(b) Be comprehensive.

(c) Include information about responsible sexual behaviors and hygienic practices that eliminate or reduce the risks of pregnancy and the risks of exposure to human immunodeficiency virus, hepatitis B, hepatitis C and other [*infectious or*] sexually transmitted [*diseases*] **infections**. Information about those risks shall be presented in a manner designed to allay fears concerning risks that are scientifically groundless.

(d) Promote abstinence for school-age youth and mutually monogamous relationships with an uninfected partner for adults as the most effective way to prevent pregnancy and the transmission of sexually transmitted [*diseases*] **infections**. However, abstinence may not be taught to the exclusion of other material and instruction on contraceptive and [*disease*] **infection** reduction measures. Human sexuality education courses shall acknowledge the value of abstinence while not devaluing or ignoring those students who have had or are having sexual intercourse.

(e) Include a discussion about the characteristics of the emotional, physical and psychological aspects of a healthy relationship and a discussion about the benefits of delaying pregnancy beyond the adolescent years as a means to better ensure a healthy future for parents and their children. Students shall be provided with statistics based on the latest medical information regarding both the health benefits and the possible side effects of all forms of contraceptives, including the success and failure rates for prevention of pregnancy.

(f) Stress that sexually transmitted [*diseases*] **infections** are serious possible outcomes of sexual contact. Students shall be provided with statistics based on the latest medical information regarding the efficacy of all methods of sexual protection in preventing [*human immunodeficiency virus infection and other*] sexually transmitted [*diseases*] **infections, including human immunodeficiency virus, hepatitis B and hepatitis C**.

(g) Provide students with information about Oregon laws that address young people's rights and responsibilities related to childbearing and parenting.

(h) Advise students of the circumstances in which it is unlawful under ORS 163.435 and 163.445 for persons 18 years of age or older to have sexual relations with persons younger than 18 years of age to whom they are not married.

(i) Teach students that no form of sexual expression is acceptable when the expression physically or emotionally harms oneself or others and teach students not to make unwanted physical and verbal sexual advances, how to decline unwanted sexual advances or accept the refusal of unwanted sexual advances. Students shall be taught that it is wrong to take advantage of or to exploit another person. Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced sexual abuse.

(j) Validate through course material and instruction the importance of honesty with oneself and others, respect for each person's dignity and well-being, and responsibility for one's actions.

(k) Assist students in the development and practice of effective communication skills, the development of self-esteem and the ability to resist peer pressure.

(L) Encourage family communication and involvement to help students learn to make responsible decisions.

(3) Any course in any public elementary and secondary school, the main purpose of which is to address human sexuality education or **sexually transmitted infections, including** human immunodeficiency virus [*education*], or both, [*shall*] **must** emphasize that abstinence from sexual contact is the only method that is 100 percent effective against unintended pregnancy, sexually transmitted [*diseases*] **infections** and human immunodeficiency virus when transmitted sexually. Abstinence [*is to*] **must** be stressed, but not to the exclusion of other material and instruction on contraceptive and [*disease*] **infection** reduction measures. [*Such*] Courses [*are to*] **described in this subsection must** acknowledge the value of abstinence while not devaluing or ignoring those students who have had or are having sexual intercourse.

(4) Nothing in this section prohibits instruction in sanitation, hygiene or traditional courses in biology.

SECTION 7. ORS 336.465 is amended to read:

336.465. (1) Each school district shall:

(a) Give parents, guardians and district residents an opportunity to examine the instructional materi-

als to be used in any class, course, assembly or school-sponsored activity.

(b) Inform parents or guardians in advance of any instruction on human sexuality or **sexually transmitted infections, including** human immunodeficiency virus**,** and give [*them*] **the parents or guardians** an opportunity to review materials. At the same time, parents or guardians shall be informed that [*no*] **a** pupil [*shall*] **may not** be required to take or participate in any instruction on human sexuality or human immunodeficiency virus if the pupil's parent or guardian, after having reviewed the materials, submits written objection to the school district.

(2) Refusal to take or participate in any class, course, assembly or school-sponsored activity on human sexuality or **sexually transmitted infections, including** human immunodeficiency virus**,** shall not be reason for harassment, suspension or expulsion of the pupil.

SECTION 8. ORS 414.153 is amended to read:

414.153. In order to make advantageous use of the system of public health care and services available through local health departments and other publicly supported programs and to ensure access to public health care and services through contract under ORS chapter 414, the state shall:

(1) Unless cause can be shown why such an agreement is not feasible, require and approve agreements between coordinated care organizations and publicly funded providers for authorization of payment for point of contact services in the following categories:

(a) Immunizations;

(b) Sexually transmitted [*diseases*] **infections**; and

(c) Other communicable diseases;

(2) Allow members of coordinated care organizations to receive from fee-for-service providers:

(a) Family planning services;

(b) Human immunodeficiency virus and acquired immune deficiency syndrome prevention services; and

(c) Maternity case management if the Oregon Health Authority determines that a coordinated care organization cannot adequately provide the services;

(3) Encourage and approve agreements between coordinated care organizations and publicly funded providers for authorization of and payment for services in the following categories:

(a) Maternity case management;

(b) Well-child care;

(c) Prenatal care;

(d) School-based clinics;

(e) Health care and services for children provided through schools and Head Start programs; and

(f) Screening services to provide early detection of health care problems among low income women and children, migrant workers and other special population groups; and

(4) Recognize the responsibility of counties under ORS 430.620 to operate community mental health programs by requiring a written agreement between each coordinated care organization and the local mental health authority in the area served by the coordinated care organization, unless cause can be shown why such an agreement is not feasible under criteria established by the Oregon Health Authority. The written agreements:

(a) May not prevent coordinated care organizations from contracting with other public or private providers for mental health or chemical dependency services;

(b) Must include agreed upon outcomes; and

(c) Must describe the authorization and payments necessary to maintain the mental health safety net system and to maintain the efficient and effective management of the following responsibilities of local mental health authorities, with respect to the service needs of members of the coordinated care organization:

(A) Management of children and adults at risk of entering or who are transitioning from the Oregon State Hospital or from residential care;

(B) Care coordination of residential services and supports for adults and children;

(C) Management of the mental health crisis system;

(D) Management of community-based specialized services, including but not limited to supported employment and education, early psychosis programs, assertive community treatment or other types of intensive case management programs and home-based services for children; and

(E) Management of specialized services to reduce recidivism of individuals with mental illness in the criminal justice system.

SECTION 9. ORS 414.679 is amended to read:

414.679. (1) The Oregon Health Authority shall ensure the appropriate use of member information by coordinated care organizations, including the use of electronic health information and administrative data that is available when and where the data is needed to improve health and health care through a secure, confidential health information exchange.

(2) A member of a coordinated care organization must have access to the member's personal health information in the manner provided in 45 C.F.R. 164.524 so the member can share the information with others involved in the member's care and make better health care and lifestyle choices.

(3) Notwithstanding ORS 179.505, a coordinated care organization, its provider network and programs administered by the Department of Human Services for seniors and persons with disabilities shall use and disclose member information for purposes of service and care delivery, coordination, service planning, transitional services and reimbursement, in order to improve the safety and quality of care, lower the cost of care and improve the health and well-being of the organization's members.

(4) A coordinated care organization and its provider network shall use and disclose sensitive diag-

nosis information including [*HIV*] **blood-borne infections** and other health and mental health diagnoses, within the coordinated care organization for the purpose of providing whole-person care. Individually identifiable health information must be treated as confidential and privileged information subject to ORS 192.553 to 192.581 and applicable federal privacy requirements. Redisclosure of individually identifiable information outside of the coordinated care organization and the organization's providers for purposes unrelated to this section or the requirements of ORS 413.032, 414.625, 414.632, 414.635, 414.638, 414.653 or 414.655 remains subject to any applicable federal or state privacy requirements.

(5) This section does not prohibit the disclosure of information between a coordinated care organization and the organization's provider network, and the Oregon Health Authority and the Department of Human Services for the purpose of administering the laws of Oregon.

(6) The Health Information Technology Oversight Council shall develop readily available informational materials that can be used by coordinated care organizations and providers to inform all participants in the health care workforce about the appropriate uses and limitations on disclosure of electronic health records, including need-based access and privacy mandates.

SECTION 10. ORS 418.325 is amended to read:

418.325. (1) A child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 shall safeguard the health of each child, ward or other dependent or delinquent child to whom the agency provides care or services by providing for medical examinations of each child by a qualified physician or naturopathic physician at the following intervals:

(a) Three examinations during the first year of the child's life;

(b) One examination during the second year of the child's life;

(c) One examination at the age of four;

(d) One examination at the age of six;

(e) One examination at the age of nine; and

(f) One examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child's health or by any particular condition.

(4) Within 90 days of obtaining custody of a child under six years of age, a child-caring agency shall provide for the child to be:

(a) Inoculated as determined appropriate by the local health department; and

(b) Tested for:

(A) Phenylketonuria pursuant to ORS 433.285;

(B) Visual and aural acuity consistent with the child's age;

(C) Sickle-cell anemia;

(D) Effects of rubella, if any;

(E) Effects of parental [*venereal disease*] **sexually transmitted infections**, if any; and

(F) The hereditary or congenital effects of parental use of drugs or controlled substances.

(5) Within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, the child-caring agency shall provide for such child to have a complete physical examination by a physician or naturopathic physician, including but not limited to inspection for evidence of child abuse in accordance with rules of the Department of Human Services, and be tested for visual and aural acuity consistent with the child's age.

(6) A child-caring agency shall record the results of tests provided a child pursuant to subsections (1) to (5) of this section in the child's health record. The child's health record shall be kept as a part of the agency's total records of that child. The child's health record shall be made available to both natural parents and to both prospective foster or adoptive parents of that child. A qualified member of a child-caring agency under the supervision of a qualified physician or naturopathic physician shall explain to adoptive parents the medical factors possible as a result of a child's birth history, hereditary or congenital defects, or disease**, infection** or disability experience.

SECTION 11. ORS 419C.475 is amended to read:

419C.475. (1) Whenever a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 (1) for having committed an act from which it appears that the transmission of body fluids from one person to another as described in ORS 135.139 may have been involved or a sexual act may have occurred, the court shall order the youth offender to submit to [*HIV*] **blood-borne infection** testing as provided in ORS 135.139 if the victim, or parent or guardian of the victim, requests the court to make such an order.

(2) The court may also order the youth offender or the parent or guardian of the youth offender to reimburse the appropriate agency for the cost of the test.

SECTION 12. ORS 659A.145 is amended to read:

659A.145. (1) As used in this section:

(a) "Dwelling" has the meaning given that term in ORS 659A.421.

(b) "Purchaser" has the meaning given that term in ORS 659A.421.

(2) A person may not discriminate because of a disability of a purchaser, a disability of an individual residing in or intending to reside in a dwelling after it is sold, rented or made available or a disability of any individual associated with a purchaser by doing any of the following:

(a) Refusing to sell, lease, rent or otherwise make available any real property to a purchaser.

(b) Expelling a purchaser.

(c) Making any distinction or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or the furnishing of any facilities or services in connection with the real property.

(d) Attempting to discourage the sale, rental or lease of any real property.

(e) Representing that a dwelling is not available for inspection, sale, rental or lease when the dwelling is in fact available for inspection, sale, rental or lease.

(f) Refusing to permit, at the expense of the individual with a disability, reasonable modifications of existing premises occupied or to be occupied by the individual if the modifications may be necessary to afford the individual full enjoyment of the premises. However, in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a reasonable modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(g) Refusing to make reasonable accommodations in rules, policies, practices or services when the accommodations may be necessary to afford the individual with a disability equal opportunity to use and enjoy a dwelling.

(h) Failing to design and construct a covered multifamily dwelling as required by the Fair Housing Act (42 U.S.C. 3601 et seq.).

(3) A person may not publish, circulate, issue or display or cause to be published, circulated, issued or displayed any communication, notice, advertisement, or sign of any kind relating to the sale, rental or leasing of real property that indicates any preference, limitation, specification or discrimination against an individual on the basis of disability.

(4) A person whose business includes engaging in residential real estate related transactions, as defined in ORS 659A.421 (3), may not discriminate against any individual in making a transaction available, or in the terms or conditions of the transaction, because of a disability.

(5) A real estate broker or principal real estate broker may not accept or retain a listing of real property for sale, lease or rental with an understanding that the purchaser, lessee or renter may be discriminated against solely because an individual has a disability.

(6) A person may not deny access to, or membership or participation in, any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against any individual in the terms or conditions of the access, membership or participation, because that individual has a disability.

(7) A person may not assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section.

(8) A person may not coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this section.

(9) A person may not, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of an individual who has a disability.

(10) In the sale, lease or rental of real property, a person may not disclose to any person that an occupant or owner of the real property has or died from [*human immunodeficiency virus or acquired immune deficiency syndrome*] **a blood-borne infection**.

(11) Any violation of this section is an unlawful practice.

SECTION 13. ORS 676.350, as amended by section 20, chapter 61, Oregon Laws 2018, is amended to read:

676.350. (1) As used in this section:

(a) "Expedited partner therapy" means the practice of prescribing or dispensing antibiotic drugs for the treatment of a sexually transmitted [*disease*] **infection** to the partner of a patient without first examining the partner of the patient.

(b) "Partner of a patient" means a person whom a patient diagnosed with a sexually transmitted [*disease*] **infection** identifies as a sexual partner of the patient.

(c) "Practitioner" has the meaning given that term in ORS 475.005.

(2) A health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board may adopt rules permitting practitioners to practice expedited partner therapy. If a board adopts rules permitting practitioners to practice expedited partner therapy, the board shall consult with the Oregon Health Authority to determine which sexually transmitted [*diseases*] **infections** are appropriately addressed with expedited partner therapy.

(3) A prescription issued in the practice of expedited partner therapy authorized by the rules of a board is valid even if the name of the patient for whom the prescription is intended is not on the prescription.

(4) The authority shall make available informational material about expedited partner therapy that a practitioner may distribute to patients.

SECTION 14. ORS 677.370 is amended to read:

677.370. No semen shall be donated for use in artificial insemination by any person who:

(1) Has any disease or defect known by [*him*] **the person** to be transmissible by genes; or

(2) Knows or has reason to know [*he*] **the person** has a [*venereal disease*] **sexually transmitted infection**.

SECTION 15. ORS 743.154 is amended to read:

743.154. (1) A life insurance policy or a rider to a life insurance policy may provide for the acceleration of death benefits as part of the life insurance coverage. For purposes of this section, accelerated death benefits are benefits that:

(a) Are payable to the policy owner or certificate holder during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider;

(b) Reduce the death benefit otherwise payable under the life insurance policy; and

(c) Are payable upon the occurrence of a single qualifying event that results in the payment of a benefit amount fixed at the time of acceleration.

(2) For purposes of this section, a qualifying event is one or more of the following:

(a) A medical condition that will result in a drastically limited life span, as specified in the policy or rider, not exceeding 24 months.

(b) A medical condition that has required or requires extraordinary medical intervention, such as a major organ transplant or continuous artificial life support, without which the insured would die.

(c) Any condition that usually requires continuous confinement in an eligible institution, as defined in the policy or rider, if the insured is expected to remain there for the rest of the insured's life.

(d) A medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span. Such conditions may include but are not limited to one or more of the following:

(A) Coronary artery disease resulting in an acute infarction or requiring surgery;

(B) Permanent neurological deficit resulting from cerebral vascular accident;

(C) End-stage renal failure; or

(D) **Human immunodeficiency virus or** acquired immune deficiency syndrome.

(e) Any other event determined by the Director of the Department of Consumer and Business Services to be life-threatening.

(3) A policy or rider that provides for the acceleration of death benefits:

(a) Must also provide for the continuation of the policy as to the amount of the death benefit that is not accelerated.

(b) Must allow the policy owner or the certificate holder to request payment at any time during the period that the qualifying event continues.

(4) A policy or rider that provides for the acceleration of death benefits under this section shall not be described or marketed by an insurer as long term care insurance or as providing long term care benefits.

(5) The director shall adopt rules establishing minimum benefits, criteria for the payment of accelerated benefits, disclosure requirements and actuarial standards.

SECTION 16. ORS 435.010 is amended to read:

435.010. (1) [*No*] Appliances, drugs or medicinal preparations intended or [*having*] **that have** special utility for the prevention of conception or [*venereal diseases*] **sexually transmitted infections**, or both, [*shall*] **may not** be manufactured or sold at wholesale in this state without a license issued by the State Board of Pharmacy, as provided in ORS 435.010 to 435.130[*, which licenses shall be*]**. A license described in this subsection must be obtained** in addition to other licenses required by law.

(2) The prohibitions of subsection (1) of this section do not apply to practitioners as defined in ORS 689.005.

Approved by the Governor June 7, 2019
Filed in the office of Secretary of State June 12, 2019
Effective date January 1, 2020